IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 4TH DECEMBER, 2006 / 14TH AGRAHAYANA, 1928

WP(C).No. 14316 of 2006(D)

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EP.74/2003 of SUB COURT, HOSDRUG

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PETITIONER:

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P.PARVATHI, AGED 50 YRS,
W/O. KUNHAMBU NAIR, RESIDING AT ELLUVALAPPIL
HOUSE, BALLATH, BALLATH VILLAGE,
BALLA P.O., HOSDURG TALUK, KASARGOD DISTRICT.

BY ADV. SRI.T.MADHU
SRI.ASMI SAJEEVAN

RESPONDENTS:

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1. THE KOTTACHERY SERVICE CO-OPERATIVE
BANK LTD., KOTTACHERY, REPRESENTED BY
ITS SECRETARY, OFFICE OF THE SECRETARY,
KOTTACHERY SERVICE CO-OPERATIVE BANK LTD.,
KOTTACHERY, BALLA VILLAGE, KANHANGAD P.O.,
HOSDURG TALUK, KASARGOD DISTRICT.

2. THE ASST. REGISTRAR OF CO-OPERATIVE
SOCIETIES, HOSDURG.

BY ADV. SRI.P.K.VIJAYAMOHANAN
SMT.RESMI G. NAIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

Ext.P1:- True copy of the E.P.No.74/03 on the file of the Subordinate Judge's Court, Hosdurg.

Ext.P2:- True copy of the application praying to adjourn the sale of the immovable property by remitting the amount.

Ext.P3:- True copy of the petition dated 8-7-04 praying to adjourn the sale.

Ext.P4:- True copy of the petition filed on behalf of the petitioner dated 6-8-2004.

Ext.P5:- True copy of the petition dated 4-0-04.

Ext.P6:- True copy of the petition dated 1-10-04.

Ext.P7:- True copy of the petition dated 29-11-2004.

Ext.P8:- True copy of the petition dated 20-12-2004.

Ext.P9:- True copy of the petition dated 19-1-2005.

Ext.P10:- A true copy of the petition dated 1-9-2005.

Ext.P11:- True copy of petition dated 29-10-2005.

Ext.P12:- True copy of the notice dated 10-4-2006 in E.A.No.123/2006 in E.P.No.74/03 on the file of the Subordinate Judge's Court, Hosdurg.

Ext.P13:- True copy of the application filed by the 1st respondent under order 21 Rule 72 of the CPC dated 15-7-2003.

Respondents Exhibits:-

Ext.R1(a):- True copy of the statement showing the loan particulars the remittances made and the balance due.

/true copy/

P.S. To Judge

**M.SASIDHARAN NAMBIAR,J.**

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W.P.(C) NO.14316 OF 2006

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Dated this the 4th day of December,2006

JUDGMENT

Petitioner is the judgment debtor. First respondent is the decree holder. Second respondent is the Assistant Registrar of Co-operative Societies. When petitioner failed to pay the amount due to first respondent, the dispute was referred to second respondent, who passed an award for realisation of Rs.1,98,956/- from petitioner. Though petitioner paid part of the amount by monthly payments, when E.P. was pending, on the failure to pay the balance decree debt, property of petitioner was sold and purchased by the first respondent decree holder. This petition was filed under Article 227 of the Constitution of India, seeking a direction to the executing court to keep the execution proceedings in abeyance for six months, to enable petitioner to settle the liability due to first respondent. As per order

dated 2.6.06 this court granted an order of stay of delivery of the property for six months, to enable the petitioner to settle the dispute as sought for in the Writ petition, with a direction to pay Rs.35,000/- to the decree holder. According to petitioner, the amount was paid accordingly. But the balance amount was not paid. The arguments of the learned counsel appearing for petitioner was that petitioner may be permitted to pay the balance amount as one time settlement. Learned counsel appearing for second respondent submitted that there is no scheme for one time settlement in respect of debts of Co-operative Banks.

This Writ Petition is disposed of granting petitioner one month's time to settle the dispute with the first respondent. The executing court is directed to keep the order for delivery of the property in abeyance for one month. Petitioner is at liberty to settle the dispute in the meanwhile.

M.SASIDHARAN NAMBIAR
JUDGE

tpl/-

M.SASIDHARAN NAMBIAR, J.

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W.P.(C).NO. /06

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JUDGMENT

SEPTEMBER,2006